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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/603,210	06/25/2003	Cong Thanh Dinh	577-514 CON	2665
23869	7590	02/23/2004	EXAMINER	
HOFFMANN & BARON, LLP 6900 JERICHO TURNPIKE SYOSSET, NY 11791			PATEL, DHIRUBHAI R	
			ART UNIT	PAPER NUMBER
			2831	

DATE MAILED: 02/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/603,210

Applicant(s)

DINH ET AL.

Examiner

DHIRU R PATEL

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 29 and 30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 29 and 30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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Part III DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, gasketless door recited in claim 1 must be shown or the feature(s) canceled from the claim(s). The examiner suggest showing reference number for **gasketless door** . A proposed drawing correction or corrected drawings are required in reply to the office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance. No new matter should be entered. Applicant is responsible for showing reference number for claimed invention.
2. Applicant is required to submit a proposed drawing correction in reply to this office action. However, formal correction of the noted defect may be deferred until after the examiner has considered the proposed drawing correction. Failure to timely submit the proposed drawing correction will result in the abandonment of the application.

Claim Rejections - 35 USC § 112

3. Claims 1-6, 29-30 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for a box having an interior defined by a base and side walls, the specification does not reasonably provide enablement for " said dividing wall providing a water resistant barrier between said drainage interior portion and said receptacle interior portion" and " the cover comprising a pivotally openable **gasketless door** ". The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make or assemble the invention commensurate in scope with the

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claim. The specification doesn't reasonably disclose the claimed subject matter of claim 1, and therefore the subject matter of claim 1 is not enabled by the disclosure of the invention. The applicant is required to cancel the claims 1-6, 29-30 or provide a reasonable explanation of why they feel the specification supports the subject matter as disclosed in claim 1.

Specification

4. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required:

In claim 1 lines 5-6, " said dividing wall providing a water resistant barrier between said drainage interior portion and said receptacle interior portion" is not supported by the **original** specification.

In claim 1 lines 11-12, " the cover comprising a pivotally openable gasketless door " is not supported by the **original** specification.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-5, 29-30 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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In claim 1 lines 11-12, " the cover comprising a pivotally openable gasketless door " is confusing because the **original** specification did not provide adequately support for **gasketless door** , the drawings do not have element number for **gasketless door**. The examiner interpreted as a gasketless peripheral seal between the cover and the box.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103 (a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the

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applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 1 and 30 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Riedy et al (6,265,662) in view of Yetter (5,486,650) and Feldman et al (4,654,470).

Riedy et al disclose:

Regarding claim 1, (a) a box 14 (see fig 1, column 1 lines 50-60) having an interior defined by a base (not shown), and side walls and an open upper face 16 defined by the side walls (see fig 1, column 2 lines 5-10), and

(b) a cover assembly 10 comprising (see fig 1, column 1 lines 50-55):

(i) a flange 30 (a floor plate, see fig 1, column 1 lines 60-65, column 2 lines 1-5) supported on and extending around the side walls at the open upper face of said box 14 (see column 1 lines 20-25, and column 2 lines 5-15); and

(ii) a cover 32 (see fig 1, column 1 lines 60-65) pivotally attached to said flange (see fig 3, column 1 lines 65-67, column 2 lines 1-5, and column 2 lines 28-41) and having sufficient expanse to substantially cover said open upper face (see figs 1 and 3), the cover 32 comprising a pivotally openable door 34 (see fig 1 and 4, column 2 lines 1-5, and column 2 lines 35-60) thereon to allow electrical wires therethrough (see fig 4). Riedy fails to disclose said box including a dividing wall supported therein, wherein said dividing wall divides said interior into a receptacle interior portion and a drainage interior portion,

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and said dividing wall providing a water resistant barrier between said drainage interior portion and said receptacle interior portion and gasketless door. Yetter teaches the use of an electrical box 10 with a dividing wall 12 (partition, see fig 1, column 3 lines 24-35) in order to divide the interior of the box 10 into two sections 19 and 20 (see column 3 lines 25-35). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the box 14 of the assembly of Riedy et al with a dividing wall as taught by Yetter for the purpose of forming separate interior compartments, where one compartment can be used for a receptacle interior portion and the other compartment can be used for a drainage interior portion, as well as to reduce electromagnetic interference. Considering 112 first paragraph and the specification objection, it is noted that the modified assembly of Riedy et al meet the instantly claimed structural limitations for a water resistant barrier between said drainage interior portion and said receptacle interior portion. Further, with respect to gasketless door, considering 112 first paragraph, 112 second paragraph and the drawing objection, Feldman et al teach the use of a gasketless peripheral seal between the cover and the box (see entire abstract) in order to impervious to moisture due to rain, condensation and the like (see column 2 lines 15-20) and to reduce manufacture and installation cost, and easier to assemble (see column 1 lines 15-28). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide

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the modified assembly of Riedy et al with a gasketless peripheral seal between the cover and the box because it is well known in the electrical art to provide a gasketless peripheral seal between the cover and the box as evidenced by Feldman et al in order to impervious to moisture due to rain, condensation and the like as well as to reduce manufacture and installation cost, and easier to assemble.

Regarding claim 30, the modified assembly of Riedy et al shows all of the claimed features as shown above, including please note that Feldman teach the use of a gasketless junction box (see column 5 lines 4-10) in order to reduce manufacture and installation cost, and easier to assemble (see column 1 lines 15-28). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the modified assembly of Riedy et al with the box 14 being gasketless as taught by Feldman et al in order to reduce manufacture and installation cost and easier to assemble.

7. Claims 2-5 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Riedy et al (6,265,662) in view of Yetter (5,486,650) and Feldman et al (4,654,470) as applied to claim 1 above and further in view of Fabian et al (5,594,207).

Regarding claim 2, the modified assembly of Riedy et al shows all of the claimed features as shown above, but fails to disclose said dividing wall has an opening. Fabian et al teach the use of a dividing wall 17 with an opening 17d (knockout,

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see fig 1, column 5 lines 5-10 of Fabian et al) to allow electrical wires therethrough (see fig 1, column 5 lines 1-10 of Fabian et al). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide said dividing wall of the modified assembly of Riedy et al with an opening as taught by Fabian et al in order to allow electrical wires therethrough.

Regarding claim 3, the modified assembly of Riedy et al shows all of the claimed features as shown above, including a knockout 36 in at least one of side walls (see fig 2 of Yetter) .

Regarding claim 4, the modified assembly of Riedy et al shows all of the claimed features as shown above, including a hole 38 in a base 14 (see fig2 of Yetter).

Regarding claim 5, the modified assembly of Riedy et al shows all of the claimed features as shown above, including a hole 38 in a base 14 (see fig 2 of Yetter) .

8. Claim 29 is rejected under 35 U.S.C. 103 (a) as being unpatentable over Riedy et al (6,265,662) in view of Yetter (5, 486,650) and Feldman et al (4,654,470) as applied to claim 1 above, and further in view of Rogers et al (5,837,936).

the modified assembly of Riedy et al shows all of the claimed features as shown above, but fails to disclose said box is metal. Rogers et al teach the use of electrical outlet boxes being fabricated from metal (see column 3 lines 19-25).

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It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the modified assembly of Riedy et al with the box 14 being made from a metal because metal is well known in the electrical art to make a box as evidenced by Rogers et al, and it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

Response to Arguments

9. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

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Contact information

10 Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dhiru Patel whose telephone number is (571) 272 -1983. The examiner can normally be reached on Mondays-Thursdays from 6:30 am to 4:00 pm. The fax number for this Group is 703-872-9306. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (571) 272-2800 ext 31.

Dhiru Patel
Patent Examiner
Group Art Unit 2831
February 19, 2004

Dhiru Patel
Primary Examiner
2/19/04.